

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>D&B INVESTMENTS LLC,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 54580</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 21, 2010, MaryKay Kelley and Sondra W. Mercier presiding. Petitioner was represented by Linda Dunbar and Donna Bauder, Co-owners. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**5235 West Mississippi Avenue, Lakewood, Colorado
(Jefferson County Schedule No. 060481)**

Subject is a former residence that has been converted to mixed-use. It has a main floor area of 1,037 square feet that is currently used by Ms. Bauder as a beauty salon; vacant upper level offices of 432 square feet; and leased, basement-area residence of 864 square feet. There are two detached utility garages of 600 square feet and 793 square feet that are leased.

Ms. Donna Bauder testified that it is difficult to rent the upstairs because of inadequate on-site parking. Residential use of the upper level is not desirable because there is just one entrance door to the main level.

Based on the market approach, Petitioner presented an indicated value of \$278,724.00 for the subject property.

Petitioner relied on Respondent's Comparable Sales 1, 3 and 4 ranging in sales price from \$380,000.00 to \$499,000.00 prior to adjustment, and in size from 1,508 to 4,487 square feet. Petitioner contended that Sale 1 is in a superior location proximate to Wal-Mart and has a larger site fronting to a major street compared to the subject, concluding to a sales price of \$84.68 per square foot. Petitioner contended that Respondent's adjustment to Sale 4 was inadequate for location and quality. Petitioner applied an adjustment of 25% for location and an additional 25% for superior quality to Sale 4, resulting in an adjusted price of \$82.26 per square foot. Petitioner relied on Respondent's analysis of Sale 3, resulting in a price of \$191.47. After adjustments were made, the sales indicated an average price of \$119.47 per square foot. Applied to the subject's square footage of 2,333, Petitioner presented an indicated value of \$278,724.00 for the subject.

Based on the market approach, Respondent presented an indicated value of \$326,620.00 for the subject property. Respondent's witness, Darla Jaramillo, testified that the subject has a good location, approximately ½ block from Sheridan on Mississippi, with signage on Mississippi. Restaurants and other businesses surround the property. Access to the property is very good from either direction. The garages were leased as of the date of value.

Ms. Jaramillo selected comparable sales that included a mix of residential and commercial uses. Respondent presented four comparable sales ranging in sales price from \$380,000.00 to \$540,000.00 and in size from 1,508 to 4,487 square feet. Respondent applied percentage adjustments for location, gross building area, access/visibility, number of levels and quality. Respondent added a 10% upward adjustment to each of the comparable sales to reflect the value of the subject's two detached garages. After adjustments were made, the sales ranged from \$115.70 to \$204.82. Respondent relied most on Sales 1, 3 and 4 because they all included residential use, concluding to a value for the subject of \$140.00 per square foot of gross building area.

Respondent considered the income approach, but found limited data as mixed-use conversions are often owner occupied. Respondent applied the income approach to the two garages used as storage warehouse using income of \$9,600 per year, less 5% for vacancy and 5% for expenses. Applying a capitalization rate of 8.5%, the indicated value of the garages is \$101,929.00.

Respondent assigned an actual value of \$302,700.00 to the subject property for tax year 2009.

The Board considers Petitioner's alternative adjustments to the mixed-use building persuasive; however Petitioner's approach on Respondent's Sales 1 and 4 fails to give value to the two garages. Adding the value of the garages based on Respondent's income approach, at \$101,929.00, the Petitioner's indicated value increases to \$346,676.00 which is well above the current value assigned by Respondent.

Respondent presented sufficient probative evidence and testimony to prove that the tax year 2009 valuation of the subject property was correct.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

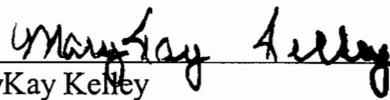
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

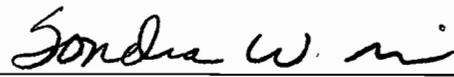
Section 39-8-108(2), C.R.S.

DATED and MAILED this 27th day of July 2010.

BOARD OF ASSESSMENT APPEALS

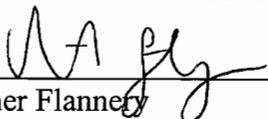


MaryKay Kelley



Sondra W. Mercier

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Heather Flannery

